

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BRODIE L. BOWMAN, JAKE BRYANT,  
BRIAN STEPHEN CHU, KD CARBON  
CAPTURE, LP, KEVIN DOUGLAS,  
ALLIMAR HOLDINGS1 GP, MARK  
DOUGLAS, ALLISON DOUGLAS,  
KWANSOO LEE, BLUESTRAT HOLDINGS  
GP, STEPHEN BLAKE MCGARRAH,  
POLLACK BROTHERS LIMITED  
PARTNERSHIP, ADAM POLLACK,  
JONATHAN POLLACK, RYAN RICHARD,  
JAMES DOUGLAS, STACEY TILLMAN,  
AARON WHITE AND TIMOTHY S.  
PEABODY,

Plaintiffs,

v.

UNIBANK, U & I FINANCIAL CORP.,  
SIMON BAI, D. BENJAMIN LEE, PETER  
PARK, STEPHANIE YOON, AND DOES  
1-12,

Defendants.

Case No. 2:23-cv-971

**PLAINTIFFS' COMPLAINT**  
**JURY DEMAND**

## **INTRODUCTION**

On May 8, 2023, the U.S. Securities and Exchange Commission (“SEC”) announced that it had filed an emergency action in Waco, Texas seeking to stop Roy Hill (“Hill”) and Eric Shelly (“Shelly”) from selling fraudulent oil-and-gas-related investments in Hill’s company, Clean Energy Technology Association, Inc. (“CETA”), in great part through Shelly’s company Freedom Impact Consulting, LLC (“FIC”). News of the complaint, originally filed under seal on May 3, 2023, rippled out to investors via the web, phone calls, and text messages.

CETA promoted itself as inventing and owning patented technology that it used to build carbon capture and utilization units (“CCUs”) that could be installed on oil and natural gas wells and pipelines to pull carbon dioxide from the gas. The carbon dioxide could then be sold for use elsewhere in the oil and gas industry. CETA further touted that it had contracts with ExxonMobil to deploy the CCUs. In reality, the CCUs did not perform as represented. Moreover, CETA had no patents on its carbon capture technology and no contracts with ExxonMobil for deployment. All of the CCUs sold to investors were non-working prototypes. Additionally, some investors may have purchased a CCU that did not exist. Ultimately, CETA was a Ponzi scheme, paying old investors returns with money taken from new investors.

According to the SEC receiver’s report, CETA brought in over \$155 million from 500 investors nationwide since 2019. The receiver is still investigating and expects these numbers to increase significantly. Like all Ponzi schemes, CETA could not have taken the volume of victim-investors’ funds that it did without financial institutions participating. Hill maintained numerous accounts at Wells Fargo Bank, and co-conspirator Shelly had numerous accounts with Citizens & Northern Bank which he used to sell feeder-fund investments in the CCUs. But some investors invested directly with CETA, bypassing Shelly’s funds. Seeking financing, they ended up getting loans through UniBank of Lynnwood, WA.

The loans UniBank put together for CETA investors were not ordinary loans. UniBank offered 7(a) loans guaranteed by the U.S. Small Business Administration (“SBA”). Unlike an

1 ordinary lender, UniBank performed additional services for CETA investors, like ensuring their  
 2 corporate form would not cause problems when submitted to the SBA, ensuring their applications  
 3 met SBA requirements, providing them with proper forms, communicating directly with CETA to  
 4 ensure the loans would meet SBA requirements, and even performing due diligence investigations  
 5 into CETA prior to making the SBA loans.

6 By doing so, UniBank stepped out of the shoes of an ordinary bank making a loan, and  
 7 operated more as a promoter for CETA and an advisor to Plaintiffs. Further, by conducting due  
 8 diligence investigations tied to so many large investments, UniBank had access to CETA's books  
 9 and records that normal investors could not demand. Still, UniBank's due diligence ignored  
 10 obvious signs of fraud that should have been enough to stop any loans from being made and even  
 11 circumvented SBA requirements in order to make the loans qualify for SBA guarantees. If  
 12 UniBank had not breached their duty to these investors, all of the losses detailed below could have  
 13 been avoided.

## 14 PARTIES

### 15 **A. Plaintiffs**

16 1. **Brodie L. Bowman** ("Dr. Bowman"), an individual over the age of 18, is a resident  
 17 of the State of Florida.

18 2. **Jake Bryant** ("Mr. Bryant"), an individual over the age of 18, is a resident of the  
 19 State of Georgia.

20 3. **Brian Stephen Chu** ("Dr. Chu"), an individual, is a resident of the State of  
 21 California.

22 4. **KD Carbon Capture, LP** ("KD Carbon") is a limited partnership organized under  
 23 the laws of the State of Texas, with its principal place of business located at 5900 Balcones Dr.  
 24 Suite 100, Austin, TX 78731.

25 5. **Kevin Douglas** ("K. Douglas"), an individual, is a resident of the State of  
 26 Mississippi. K. Douglas is a General Partner of KD Carbon.

1           6.       **Allimar Holdings1 GP** (“Allimar Holdings1”) is a general partnership organized  
2 under the laws of the State of Alabama, with its principal place of business located at 4816 Ravine  
3 Ct., Mobile, AL 36608.

4           7.       **Mark Douglas** (“M. Douglas”), an individual over the age of 18, is a resident of  
5 the State of Alabama. M. Douglas is a General Partner of Allimar Holdings1.

6           8.       **Allison Douglas** (“A. Douglas”), an individual over the age of 18, is a resident of  
7 the State of Alabama. A. Douglas is a General Partner of Allimar Holdings1.

8           9.       **Kwansoo Lee** (“Dr. Lee”), an individual over the age of 18, is a resident of the  
9 State of Washington.

10          10.       **Bluestrat Holdings GP** (“Bluestrat”) is a general partnership organized under the  
11 laws of the State of Alabama, with its principal place of business located at 311 E Glenwood Dr,  
12 Birmingham, AL 35209. At the time it obtained its SBA loan from UniBank, Bluestrat was  
13 organized as an LLC, but was later restructured to a general partnership.

14          11.       **Stephen Blake McGarrah** (“Mr. McGarrah”), an individual over the age of 18, is  
15 a resident of the State of Alabama. Mr. McGarrah was the sole Member of Bluestrat at the time  
16 Bluestrat obtained its SBA loan from UniBank. Mr. McGarrah is currently a general partner of  
17 Bluestrat.

18          12.       **Pollack Brothers Limited Partnership** (“Pollack Bros”) is a limited partnership  
19 organized under the laws of the State of Wyoming, with its principal place of business located at  
20 17 Sackston Woods Lane, St Louis, Missouri 63141.

21          13.       **Adam Pollack** (“A. Pollack”), an individual over the age of 18, is a resident of the  
22 State of Colorado. A. Pollack is a General Partner of Pollack Bros.

23          14.       **Jonathan Pollack** (“J. Pollack”), an individual over the age of 18, is a resident of  
24 the State of Missouri. J. Pollack is a General Partner of Pollack Bros.

25          15.       **Ryan Richard** (“Dr. Richard”), an individual over the age of 18, is a resident of  
26 the State of Georgia. Richard is a General Partner of RyanJames PL21, which is a trade name

1 registered with the Fulton County, Georgia clerk's office.

2 16. **James Douglas** ("J. Douglas"), an individual over the age of 18, is a resident of the  
3 State of Mississippi. J. Douglas is a General Partner of RyanJames PL21, which is a trade name  
4 registered with the Fulton County, Georgia clerk's office. At the time of investment, J. Douglas  
5 was 17 years old.

6 17. **Stacey Tillman** ("Ms. Tillman"), an individual over the age of 18, is a resident of  
7 the State of Tennessee.

8 18. **Aaron White** ("Dr. White"), an individual over the age of 18, is a resident of the  
9 State of Texas.

10 19. **Timothy S. Peabody** ("Mr. Peabody"), an individual over the age of 18, is a  
11 resident of the state of Georgia.

12 20. Collectively, the above-named individuals and entities are hereafter referred to as  
13 "Plaintiffs."

14 **B. Defendants**

15 21. **UniBank** is a state chartered commercial bank, organized under the laws of the  
16 State of Washington, with its principal place of business located at 19315 Hwy 99, Lynnwood,  
17 WA 98036. In 2010, UniBank filed a Plan of Reorganization with the Washington Secretary of  
18 State, pursuant to which all shares of UniBank stock were converted into stock of U & I Financial  
19 Corp. Since that date, UniBank has been a wholly owned subsidiary of U & I Financial Corp.

20 22. **U & I Financial Corp.** ("U&I") is a profit corporation, organized under the laws  
21 of the State of Washington, with its principal place of business located at 19315 Hwy 99,  
22 Lynnwood, WA 98036.

23 23. U&I is a one-bank holding company, which owns and controls all shares of  
24 UniBank.

25 24. U&I and UniBank share directors and officers, and report all financial information  
26 required by the State of Washington under the name of U&I.

1           25. **Simon Bai**, an individual over the age of 18, is a resident of the State of  
 2 Washington. On the 2022 annual reports filed with the Washington Secretary of State, Bai is listed  
 3 as a Governor of UniBank and U&I. Bai is SVP of UniBank and CFO of both UniBank and U&I.

4           26. **D. Benjamin Lee**, an individual over the age of 18, is a resident of the State of  
 5 Washington. On the 2022 annual reports filed with the Washington Secretary of State, Lee is listed  
 6 as a Governor of UniBank and U&I. Lee is also Chairman of the Board of Directors for UniBank  
 7 and, upon information and belief, Chairman of the Board of Directors for U&I.

8           27. **Peter Park**, an individual over the age of 18, is a resident of the State of  
 9 Washington. On the 2022 annual reports filed with the Washington Secretary of State, Park is  
 10 listed as a Governor of UniBank and U&I. Park is also the President and Chief Executive Officer  
 11 of UniBank and U&I. Park is also a Director of UniBank and, upon information and belief, a  
 12 Director of U&I.

13           28. **Stephanie Yoon**, an individual over the age of 18, is a resident of the State of  
 14 Washington. On the 2022 annual reports filed with the Washington Secretary of State, Yoon is  
 15 listed as a Governor of UniBank and U&I.

16           29. **DOES 1-12**, all of whom are individuals, are members of the Board of Directors of  
 17 UniBank and U&I. UniBank is a privately held company, so its directors cannot be immediately  
 18 identified. However, the identity of the Does 1-12 can be easily confirmed through discovery after  
 19 commencement of the action. Further, due to their positions with UniBank and U&I, the filing of  
 20 the complaint will make them aware of the allegations against them.

21           30. Collectively, the above-named individual Defendants with the Does 1-12 are  
 22 hereafter referred to as the “Governor Defendants.”

### 23                                   **JURISDICTION AND VENUE**

24           31. This Court has subject matter jurisdiction over this civil action pursuant to 28  
 25 U.S.C. § 1331 because the action involves a claim arising under the laws of the United States.

32. This Court has supplemental jurisdiction over Plaintiffs' state-law claims pursuant to 28 U.S.C. § 1367.

33. This Court has personal jurisdiction over Defendants because Defendants reside or have their principal place of business within this District and because Defendants engaged in the conduct set forth in this Complaint within this District.

34. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims in this Complaint occurred at UniBank's offices within this District.

35. Venue is also proper in this District pursuant to 18 U.S.C. § 1965 because Defendants reside in and/or transact their affairs within this District.

## FACTUAL ALLEGATIONS

36. Hill formed CETA as a Texas corporation in 2009 and has since controlled the entity as its President and Chairman. Before offering his CCU investments, Hill offered several other investment projects related to other energy ideas, including coal distillation technology, among others.

37. Several Plaintiffs invested in CETA's other projects before investing in the CCUs and received returns on their investments.

38. CETA claimed in a business plan related to a 2020 offering that its coal distillation units could “transform[] raw coal into a much cleaner, hotter burning, better coal called *COALlite*.” CETA also claimed the process produced a hydrocarbon solution as a byproduct, called *CETASolve*, that had multiple uses in the fossil fuel production industry.

39. CETA claimed that CETA*Solve* was trademarked and patented. However, there are no patents or trademarks registered for CETA*Solve*.

### A. The CCU Ponzi Scheme is Born

40. In 2019, CETA began offering investments in new technology, separate from its other projects, that morphed into the business of CCUs.

1           41.     CETA claimed to have invented and patented the CCUs. However, there are no  
2 patents registered for the CCUs.

3           42.     According to CETA, the CCUs used *CETASolve* to remove around 90% of the  
4 carbon dioxide out of natural gas flowing in wells or pipelines, allowing gas producers to prepare  
5 the gas for sale without shipping it to a processing site. CETA claimed that it leased the CCUs to  
6 gas producers, charging them a fee per barrel of *CETASolve* used. After the CO<sub>2</sub> is removed from  
7 the gas, CETA claimed that it resold the solvent, now infused with CO<sub>2</sub>, to oil and gas producers  
8 for use in enhanced oil and gas recovery.

9           43.     Hill offered investors the opportunity to purchase CCUs from CETA. Once  
10 purchased, the investors would lease the CCUs back to CETA. CETA would, in turn, lease the  
11 CCUs to an oil and gas producer, including deploying and maintaining the machines. CETA would  
12 be paid based upon oil and gas revenue generated by the pipeline operator using the CCU, and the  
13 barrels of CO<sub>2</sub>-laden *CETASolve* sold. CETA claimed it would then pay a portion of this to the  
14 investor.

15           44.     The cost to purchase a CCU from CETA was originally around \$1,500,000 for a  
16 larger “Pipeline” CCU or around \$1,140,000 for the smaller “Nomad” CCU. Later, the price of  
17 Pipeline CCUs increased to \$1,650,000.

18           45.     Shelly, a dentist, formed FIC in 2007. FIC purported to conduct business by  
19 providing investors with passive income strategies and tax mitigation tools. After meeting Hill in  
20 2019, Shelly, through FIC, began offering and selling investments in CETA through a series of  
21 Funds that Shelly established.

22           46.     Due to the high initial purchase price for the CCUs, many investors were unable to  
23 purchase a CCU directly from CETA. FIC’s funds pooled multiple investors’ money together to  
24 purchase CCUs, bringing the cost-per-investor down, such that more people could invest.

25           47.     FIC charged a premium for investment in his funds. For instance, some of Shelly’s  
26 offering documents note a purchase price of \$1,725,000 per Pipeline CCU – higher than the cost



1 to purchase one directly from CETA. FIC also kept a percentage of the profits from CETA and  
2 offered a set payment rate to fund investors over a set term, such that any returns above that rate  
3 or beyond the seven-year term would go to FIC.

4 **B. UniBank Fails to Perform Adequate Due Diligence**

5 48. In the Spring of 2020, Dr. Richard, having seen Hill's pitch materials, began  
6 looking for a way to invest in the CCU offering. However, Dr. Richard did not want to pay the  
7 added costs associated with investing through Shelly and FIC.

8 49. Dr. Richard had previously obtained an SBA loan through UniBank for an unrelated  
9 investment. Further, a friend of Dr. Richard had already used UniBank for a loan to fund another  
10 investment with CETA. Due to this history, Dr. Richard and K. Douglas contacted UniBank to  
11 see if it could provide an SBA loan for CCUs.

12 50. Wan Kim is the SBA Loan Production Manager for UniBank and was involved in  
13 originating every SBA loan for each Plaintiff's CCU investment.

14 51. During Summer of 2020, Wan Kim travelled to Fairfield, Texas to meet with Hill  
15 about CETA over two days.

16 52. On the first day, Hill met with Wan Kim and a group of around a dozen potential  
17 investors to discuss CETA and its projects.

18 53. On the second day, Wan Kim met with Hill to discuss investments with CETA  
19 through UniBank.

20 54. During this second meeting, Wan Kim asked Hill to provide financial documents  
21 for CETA, including audited company financials, bank statements, tax returns, and information  
22 supporting revenue projections that CETA had provided to potential investors.

23 55. UniBank sought these financial documents so that it could evaluate CETA's  
24 business for the purpose of making SBA guaranteed loans to borrowers seeking to invest in CCUs.

25 56. Hill first agreed to deliver the requested documents but never actually gave the  
26 requested information to UniBank. UniBank only obtained unaudited financial information, which

1 was prepared by CETA and could not be verified, and a list of transactions generated by CETA,  
2 instead of official bank statements.

3 57. CETA also touted to investors that it had contracts with Exxon, pursuant to which  
4 Exxon would lease and utilize CCUs. This representation greatly impacted Plaintiffs' decisions  
5 to invest.

6 58. UniBank was aware of CETA's claimed relationship with Exxon and requested  
7 copies of contracts. CETA never provided these documents to UniBank.

8 59. Despite not receiving documents to verify CETA's operations, financial  
9 performance, and contracts, UniBank began providing financing for CCU investments using SBA  
10 7(a) loans in the Spring of 2021.

### 11 **C. UniBank Provides SBA Loans to Plaintiffs for CCUs**

12 60. On March 22, 2021, Unibank closed its first CCU-related SBA 7(a) loan to  
13 Plaintiffs. The loan was given to KD Carbon, for the purchase of three CCUs. The total purchase  
14 price was \$4,500,000. The total loan amount was \$3,150,000.

15 61. All loan documents were signed on behalf of KD Carbon by K. Douglas, as general  
16 partner of KD Carbon. K. Douglas also signed an unconditional guarantee, making him personally  
17 responsible for payment of the note in the event KD Carbon defaulted. UniBank provided the loan  
18 documents to K. Douglas electronically over the internet via DocuSign.

19 62. On April 1, 2021, K. Douglas transferred \$1,525,000 to his UniBank checking  
20 account to cover down payment on the CCU, SBA loan fees, and several months' payments toward  
21 the loan after closing.

22 63. On April 2, 2021, \$1,525,000 was wired from KD Carbon's UniBank account to a  
23 KD Carbon account at Citizens and Northern Bank in Texas, including \$1,350,000 for the down  
24 payment on the CCUs and \$175,000 for loan payments.

25 64. As of May 31, 2023, KD Carbon's loan with Unibank has a balance of  
26 approximately \$2,676,911. K. Douglas, on behalf of KD Carbon, has paid approximately

1 \$473,089 in principal and \$404,092 in interest to UniBank on the loan.

2 65. On November 22, 2021, UniBank closed a CCU-related SBA 7(a) loan for  
3 RyanJames for the purchase of one CCU. The total purchase price was \$1,650,000. The total loan  
4 amount was \$1,155,000.

5 66. All loan documents were signed on behalf of RyanJames by Dr. Richard and J.  
6 Douglas, as general partners of RyanJames. Dr. Richard and J. Douglas also signed unconditional  
7 guarantees, making them personally responsible for payment of the note in the event RyanJames  
8 defaulted.

9 67. In October 2021, Dr. Richard and J. Douglas funded a UniBank checking account  
10 with \$582,500 to cover down payment on the CCU, SBA loan fees, and several months' payments  
11 towards the loan after closing.

12 68. On November 24, 2021, Dr. Richard authorized UniBank to wire \$495,000 to  
13 CETA on behalf of RyanJames for the down payment on the CCU. UniBank provided the wire  
14 authorization to Dr. Richard electronically over the internet via DocuSign.

15 69. As of May 31, 2023, RyanJames's loan with Unibank has a balance of \$956,957.35.  
16 Dr. Richard, on behalf of RyanJames, has paid \$198,042.65 in principal and \$117,541.17 in  
17 interest to UniBank on the loan.

18 70. On December 14, 2021, UniBank closed a CCU-related SBA 7(a) loan for Bluestrat  
19 for the purchase of one CCU. The total purchase price was \$1,650,000. The total loan amount  
20 was \$1,155,000.

21 71. On December 14, 2021, UniBank employee Esther Yang emailed SBA forms to  
22 Mr. McGarrah to be completed via DocuSign.

23 72. All loan documents were signed on behalf of Bluestrat by Mr. McGarrah as a  
24 Member of Bluestrat. Mr. McGarrah also signed unconditional guarantees, making him personally  
25 responsible for payment of the note in the event Bluestrat defaulted.

26 73. On December 13, 2021, Mr. McGarrah funded a UniBank checking account with

1 \$614,000 to cover down payment on the CCU, SBA loan fees, and several months' payments  
2 towards the loan after closing.

3 74. On December 15, 2021, Mr. McGarrah authorized UniBank to wire the \$495,000  
4 from Bluestrat's account to CETA for the down payment on the CCU. UniBank provided the wire  
5 authorization to Mr. McGarrah electronically over the internet via DocuSign.

6 75. As of May 31, 2023, Bluestrat's loan with Unibank has a balance of \$818,975.25.  
7 Mr. McGarrah, on behalf of Bluestrat, has paid \$336,024.75 in principal and \$114,689.56 in  
8 interest to UniBank on the loan.

9 76. On March 1, 2022, UniBank closed a CCU-related SBA 7(a) loan for Allimar  
10 Holdings1 for the purchase of two CCUs. The total purchase price was \$3,300,000. The total loan  
11 amount was \$2,310,000.

12 77. On February 16, 2022, UniBank employee Esther Yang emailed SBA loan  
13 documents to M. Douglas electronically for signature via DocuSign.

14 78. All loan documents were signed on behalf of Allimar Holdings1 by M. Douglas  
15 and A. Douglas as general partners of Allimar Holdings1. A. Douglas and M. Douglas also signed  
16 unconditional guarantees, making them personally responsible for payment of the note in the event  
17 Allimar Holdings1 defaulted.

18 79. On March 11, 2022, A. Douglas authorized UniBank to wire \$990,000 from  
19 Allimar Holdings1's account to CETA for the down payment on the CCU. UniBank provided the  
20 wire authorization to M. Douglas electronically over the internet via DocuSign.

21 80. As of May 31, 2023, Allimar Holdings1's loan with Unibank has a balance of  
22 approximately \$1,899,002.67. A. Douglas and M. Douglas, on behalf of Allimar Holdings1, have  
23 paid approximately \$410,997.33 in principal and \$224,073.31 in interest to UniBank on the loan.

24 81. On March 30, 2022, UniBank closed a CCU-related SBA 7(a) loan for Ms. Tillman  
25 for the purchase of one CCU. The total purchase price was \$1,650,000. The total loan amount  
26 was \$1,155,000.

1           82. All loan documents were signed by Ms. Tillman.

2           83. Ms. Tillman funded a UniBank checking account with \$613,000.36 to cover down  
3 payment on the CCU, SBA loan fees, and several months' payments towards the loan after closing.

4           84. On March 31, 2022, Ms. Tillman authorized UniBank to wire \$495,000 from her  
5 account to CETA for the down payment on the CCUs. UniBank provided the wire authorization  
6 to Ms. Tillman electronically over the internet via DocuSign.

7           85. As of May 31, 2023, Ms. Tillman's loan with Unibank has a balance of  
8 \$986,290.21. Ms. Tillman has paid approximately \$168,709.79 in principal and \$96,141.52 in  
9 interest to UniBank on the loan.

10          86. On May 25, 2022, UniBank closed a CCU-related SBA 7(a) loan for Dr. Bowman  
11 (d/b/a BLB Equity) for the purchase of one CCU. The total purchase price was \$1,650,000. The  
12 total loan amount was \$1,155,000.

13          87. SBA loan documents were provided to Dr. Bowman electronically for signature via  
14 DocuSign sent from UniBank employees Yuko Elliott and Esther Yang on March 10, April 25,  
15 April 28 and May 4, 2022. On May 4, 2022, UniBank employees Wan Kim and Sunny Kim also  
16 electronically signed Dr. Bowman's loan documents via DocuSign.

17          88. All loan documents were signed by Dr. Bowman.

18          89. On May 25, 2022, Dr. Bowman authorized UniBank to wire \$495,000 from his  
19 account to CETA for the down payment on the CCU. UniBank provided the wire authorization to  
20 Dr. Bowman electronically over the internet via DocuSign.

21          90. As of May 31, 2023, Dr. Bowman's loan with Unibank has a balance of  
22 \$1,040,004.19. Dr. Bowman has paid \$114,995.81 in principal and \$88,624.78 in interest to  
23 UniBank on the loan.

24          91. On June 23, 2022, UniBank closed a CCU-related SBA 7(a) loan for Mr. Peabody  
25 for the purchase of one CCU. The total purchase price was \$1,650,000. The total loan amount  
26 was \$1,155,000.

1           92. All loan documents were signed by Mr. Peabody.

2           93. Previously, in June 2021, Mr. Peabody funded a UniBank checking account with  
3 \$617,500 to cover down payment on the CCU, SBA loan fees, and several months' payments  
4 towards the loan after closing.

5           94. On June 30, 2022, Mr. Peabody authorized UniBank to wire \$495,000 from his  
6 account to CETA for the down payment on the CCU. UniBank provided the wire authorization to  
7 Mr. Peabody electronically over the internet via DocuSign.

8           95. As of May 31, 2023, Mr. Peabody's loan with Unibank has a balance of  
9 \$1,042,029.36. Mr. Peabody has paid \$112,970.64 in principal and \$90,494.17 in interest to  
10 UniBank on the loan.

11           96. On September 15, 2022, UniBank closed a CCU-related SBA 7(a) loan for Pollack  
12 Bros for the purchase of one CCU. The total purchase price was \$1,650,000. The total loan  
13 amount was \$1,155,000.

14           97. All loan documents were signed on behalf of Pollack Bros by A. Pollack and J.  
15 Pollack as general partners of Pollack Bros. A. Pollack and J. Pollack also signed unconditional  
16 guarantees, making them personally responsible for payment of the note in the event Pollack Bros  
17 defaulted. UniBank provided the loan forms to A. Pollack and J. Pollack electronically over the  
18 internet via DocuSign.

19           98. A. Pollack and J. Pollack, on July 22 and July 26, 2022, respectively, wired  
20 \$307,000 each to Pollack Bros UniBank checking account to cover down payment on the CCU,  
21 loan fees, and payments towards the loan after closing.

22           99. On September 16, 2022, A. Pollack and J. Pollack authorized UniBank to wire  
23 \$495,000 from the Pollack Bros' account to CETA for the down payment on the CCU.

24           100. As of May 31, 2023, Pollack Bros's loan with Unibank has a balance of  
25 \$1,074,589.42. A. Pollack and J. Pollack, on behalf of Pollack Bros, have paid \$80,410.58 in  
26 principal and \$72,348.28 in interest to UniBank on the loan.

1  
2           101. On September 29, 2022, UniBank closed a CCU-related SBA 7(a) loan for Dr.  
3 White for the purchase of one CCU. The total purchase price was \$1,650,000. The total loan  
4 amount was \$1,155,000.

5           102. On August 29, September 19, and September 29, 2022, UniBank employees Esther  
6 Yang and Gee Hyun Lim emailed SBA loan documents to Dr. White electronically for signature  
7 via DocuSign.

8           103. All loan documents were signed by Dr. White.

9           104. Dr. White opened a UniBank account and funded it with \$617,000 to cover down  
10 payment on the CCU, loan fees, and several months' payments towards the loan after closing.

11           105. On September 30, 2022, Dr. White authorized UniBank to wire \$495,000 from his  
12 account to CETA for the down payment on the CCU. UniBank provided the wire authorization to  
13 Dr. White electronically over the internet via DocuSign.

14           106. As of May 31, 2023, Dr. White's loan with Unibank has a balance of \$1,086,173.56.  
15 Dr. White has paid \$68,826.44 in principal and \$64,383.33 in interest to UniBank on the loan.

16           107. On October 13, 2022, UniBank closed a CCU-related SBA 7(a) loan for Mr. Bryant  
17 for the purchase of one CCU. The total purchase price was \$1,650,000. The total loan amount  
18 was \$1,155,000.

19           108. All loan documents were signed by Mr. Bryant.

20           109. Mr. Bryant opened a UniBank account and funded it with approximately \$613,000  
21 to cover down payment on the CCU, loan fees, and several months' payments towards the loan  
22 after closing.

23           110. On October 18, 2022, Mr. Bryant authorized UniBank to wire \$495,000 from his  
24 account to CETA for the down payment on the CCU. UniBank provided the wire authorization to  
25 Mr. Bryant electronically over the internet via DocuSign.

26           111. As of May 31, 2023, Mr. Bryant's loan with Unibank has a balance of

1 approximately \$1,085,836.50. Mr. Bryant has paid \$69,163.50 in principal and \$63,976.99 in  
2 interest to UniBank on the loan.

3 112. On December 6, 2022, UniBank closed a CCU-related SBA 7(a) loan for Dr. Lee  
4 for the purchase of two CCUs. The total purchase price was \$3,300,000. The total loan amount  
5 was \$2,310,000.

6 113. All loan documents were signed by Dr. Lee.

7 114. Dr. Lee opened a UniBank account and funded it with \$1,242,000 to cover down  
8 payment on the CCU, loan fees, and several months' payments towards the loan after closing.

9 115. On December 7, 2022, Dr. Lee authorized UniBank to wire \$990,000 from his  
10 account to CETA for the down payment on the CCUs. UniBank provided the wire authorization  
11 to Dr. Lee electronically over the internet via DocuSign.

12 116. As of May 31, 2023, Dr. Lee's loan with Unibank has a balance of \$2,232,713.44.  
13 Dr. Lee has paid \$77,286.56 in principal and \$76,557.62 in interest to UniBank on the loan.

14 117. On December 8, 2022, UniBank closed a CCU-related SBA 7(a) loan for Dr. Chu  
15 for the purchase of one CCU. The total purchase price was \$1,650,000. The total loan amount  
16 was \$1,155,000.

17 118. All loan documents were signed by Dr. Chu.

18 119. Dr. Chu opened a UniBank account and funded it with \$621,000 to cover down  
19 payment on the CCU, loan fees, and several months' payments towards the loan after closing.

20 120. On or about December 9, 2022, Dr. Chu authorized UniBank to wire \$495,000 from  
21 his account to CETA for the down payment on the CCU. UniBank provided the wire authorization  
22 to Dr. Chu electronically over the internet via DocuSign.

23 121. As of May 31, 2023, Dr. Chu's loan with Unibank has a balance of approximately  
24 \$1,109,968.04. Dr. Chu has paid approximately \$45,031.96 in principal and \$50,731.43 in interest  
25 to UniBank on the loan.

26 122. Each Plaintiff was required to have a checking account with UniBank to obtain the



1 loan. UniBank mandated that some Plaintiffs' earnings from CETA be sent to UniBank for deposit  
2 into this account.

3 123. Each Plaintiff also paid a substantial SBA loan fee to UniBank to get their loan.

4 124. Each Plaintiff was also required by UniBank to purchase insurance on their CCU,  
5 pursuant to SBA guidelines, the premium for which cost approximately \$16,000 to \$45,000 per  
6 year. UniBank put each investor in contact with the insurance providers.

7 **D. UniBank's Role Went Beyond the Lender-Borrower Relationship**

8 125. UniBank has extensive experience in processing and making SBA loans to  
9 borrowers.

10 126. UniBank has an entire page on its website dedicated to SBA loans, where it notes  
11 that it is a "designated SBA PLP (Preferred Lender Program) and Express lender" and that  
12 "UniBank's experienced loan officer will assist you from start to finish by processing your loan  
13 application in a timely manner."<sup>1</sup>

14 127. According to the SBA's 7(a) & 504 Lender Report, UniBank approved 38 loans in  
15 2020 for over \$47 million and 23 loans in 2021 for over \$31 million.<sup>2</sup>

16 128. UniBank's relationship to Plaintiffs for the SBA loans for CETA investments was  
17 different from a typical lender-borrower transaction. UniBank took on a larger role by providing  
18 specific guidance as to the SBA loan process, as well as generating financial projections for the  
19 CCU investments.

20 129. SBA loans are not like ordinary business loans. There are stringent federal  
21 requirements related to what borrowers qualify for the loans and for what purposes loan proceeds  
22 can be used. The SBA also mandates that specific forms must be used and that specific language  
23 must be incorporated into bank forms used with SBA loan applications.

24  
25 <sup>1</sup> See <https://www.UniBankusa.com/en-us/Loans/SBA-Loan>. (last accessed: June 27, 2023)

26 <sup>2</sup> See <https://careports.sba.gov/views/7a504LenderReport/LenderReport>. (last accessed: June 5, 2023)

1           130. Plaintiffs relied on UniBank's expertise, knowledge, and advice as to whether their  
2 CCU investments were eligible for an SBA loan.

3           131. Plaintiffs relied on UniBank's expertise, knowledge, and assistance to ensure that  
4 they or their business entities were eligible for an SBA loan.

5           132. UniBank instructed Plaintiffs on what business entity types should be used to be  
6 eligible for an SBA loan, and how those entities should be structured.

7           133. UniBank provided business plans and pro forma financial projections for most  
8 Plaintiffs to submit with their SBA loan applications. These pro formas were based upon  
9 calculations by UniBank staff, unsupported by any verified financial information related to the  
10 operation of any CCU.

11           134. For instance, on October 14, 2021, UniBank Chief Credit Officer Sunny Kim  
12 discussed via email with Dr. Richard that he had altered projected revenues to account for changes  
13 in utilization and overhead expenses he deemed appropriate.

14           135. Plaintiffs further relied on UniBank's expertise, knowledge, and assistance to  
15 ensure that all forms were properly completed as required by SBA regulations and guidelines.

16           136. UniBank completed nearly all of the paperwork for Plaintiffs' SBA loans, and then  
17 provided them to Plaintiffs for their signature.

18           137. In June 2021, after already making their first CCU-related loan, UniBank staff  
19 frequently communicated directly with Hill and CETA staff on topics such as securing insurance  
20 for the CCUs (as required by SBA for loans), confirming projected revenues that UniBank had  
21 prepared, confirming tax benefits associated with the CCU investments, and modifying CETA  
22 Operator's Agreements and partnership agreements to purportedly comply with SBA lending  
23 requirements. All of these acts by UniBank, were done so that UniBank could provide Plaintiffs  
24 with SBA guaranteed loans to invest in CCUs from CETA.

25           138. On June 10, 2021, UniBank SVP and Chief Credit Officer Sunny Kim emailed Hill  
26 and provided revenue projections that UniBank had created, asking Hill if they were reasonable.

1           139. On October 4, 2021, Sunny Kim emailed Hill and other CETA personnel with  
2 operator's agreements that UniBank had modified for SBA requirements, showing UniBank  
3 employees took an active hand in the offering of CCU investments.

4           140. UniBank took financial information provided by Hill and created pro forma revenue  
5 projections for CCU investments, which Unibank then provided to investors and to the SBA.

6           141. UniBank worked with New Orleans Equity Partners, LLC ("NOEP"), a Louisiana  
7 company that placed investments with CETA.

8           142. NOEP's member-managers, Pam Abide and Sharon Foreman, met with UniBank's  
9 Wan Kim as early as March 2021. Afterwards, UniBank and NOEP worked in tandem to supply  
10 documentation to Plaintiffs and to serve as a conduit for information from Hill and CETA to  
11 Plaintiffs, many of whom never actually met or spoke with Hill.

12           143. Mr. McGarrah's first contact with Hill was in December 2019, after learning of  
13 CETA through an acquaintance who invested in other CETA projects.

14           144. Hill provided Mr. McGarrah with offering documents on these other projects and  
15 directed him to NOEP, who handled the preparation of participation agreements for Mr. McGarrah  
16 to invest.

17           145. Later, in July 2021, Mr. McGarrah first heard about the CCUs and contacted Pam  
18 Abide at NOEP to get more information.

19           146. NOEP told Mr. McGarrah that UniBank was providing the SBA loans for CCUs  
20 and had approval from CETA and the SBA to provide more. Mr. McGarrah was also provided  
21 with a pro forma financial projection of expected returns from a CCU investment.

22           147. The fact that UniBank was providing multiple SBA loans for the projects  
23 legitimized the CCU investment for Mr. McGarrah.

24           148. When Mr. McGarrah asked NOEP who he should talk to about investing in a CCU,  
25 instead of directing him to Hill or anyone at CETA, they directed him to Wan Kim at UniBank.  
26

1           149. Wan Kim represented to Mr. McGarrah that CETA was a “mom and pop operation  
2 that was poised to explode.”

3           150. As part of the process, UniBank put together Mr. McGarrah’s business plan for  
4 submission to the SBA, including a pro forma that was substantially the same as the one NOEP  
5 had provided, but had alterations done by UniBank.

6           151. Many Plaintiffs’ communications related to CCU investments were first with  
7 UniBank, not CETA. After this, it was UniBank that connected them with NOEP and/or Hill to  
8 complete the SBA loan process.

9           152. Mr. Bryant first contacted UniBank about securing an SBA loan for his CCU  
10 purchase on January 5, 2022. Mr. Bryant never had any contact with Hill or CETA until July 29,  
11 2022, more than seven months later, when Wan Kim introduced him by email to execute  
12 agreements. Mr. Bryant never spoke with anyone at CETA.

13           153. In June 2022, Dr. White was first told about the potential to invest in the CCU  
14 project, directly, through an SBA loan with Unibank. Dr. White communicated with Wan Kim at  
15 UniBank first, not CETA. Dr. White was introduced to Hill via email on August 30, 2022, just  
16 one month before his loan closed, but received no reply. Dr. White never had verbal or written  
17 communication with Hill or anyone at CETA at any time.

18           154. Further, in August 2022 before closing his CCU loan with UniBank, Dr. White  
19 asked about financial projections. Dr. White was provided with a pro forma from Wan Kim, not  
20 Hill or anyone at CETA, and instructed to sign it as part of his closing documents.

21           155. Communications with UniBank employees reflect that, as early as July 2021,  
22 UniBank CEO Peter Park was fully aware that UniBank was providing SBA loans for investments  
23 in CETA’s CCU projects.

24           **E. UniBank Ignores Signs of Fraud and Continues Making Loans**

25           156. Throughout the time period during which UniBank was issuing loans for the  
26 purchase of CCUs, UniBank employees were concerned about CETA and Hill’s refusal to supply

1 audited or reviewed financial information and verification of claimed business relationships.

2 157. In July 2021, after not receiving responses from Hill about CCU performance,  
3 UniBank halted the process of approving the next CCU loans.

4 158. In August 2021, Hill resumed contact with UniBank. Hill and Unibank staff  
5 worked together to structure the CCU loan terms so that they would appear to comply with SBA  
6 requirements.

7 159. Still, Hill did not provide any audited or reviewed financials, bank statements, tax  
8 returns, or contracts with Exxon.

9 160. Further, UniBank was aware that Hill's claimed patents and trademarks for  
10 CETASolve and the CCUs did not exist. The publication of such claims in offering documents,  
11 which UniBank possessed, is a violation of federal and state securities laws.

12 161. Without any other factors, the high returns promised by CETA for the CCU  
13 investments, over 40% annually, should have been a glaring red flag for UniBank that CETA was  
14 a fraud. These returns, combined with CETA's refusal to provide proper financials, refusal to  
15 provide tax returns, refusal to provide contracts, and Hill's confirmed lies about patents and  
16 trademarks, establish that UniBank knew or should have known that CETA was a fraud.

17 162. Still, UniBank continued to issue loans to Plaintiffs and collect substantial fees and  
18 interest. Moreover, because these were SBA loans, UniBank knew it could seek the federal  
19 guarantee on 75% of the loan balance should Plaintiffs default.

20 163. Since news of the SEC action broke on May 8, UniBank has offered virtually no  
21 assistance to Plaintiffs other than offering to stretch the term of the note and perhaps lower the  
22 interest rate. Of course, to do this, they demand a full release of liability. No Plaintiff has signed  
23 any release of liability.

24 164. UniBank's plan appears to be the same as it was in making the loans – generate  
25 revenue on the loan, use the federal guarantee to cover UniBank's risk, and, if the bubble bursts,  
26 leave Plaintiffs holding the bag.

**CAUSES OF ACTION**

**COUNT I – FRAUD AGAINST UNIBANK**

165. Plaintiffs restate, reallege, and incorporate by reference all of the foregoing paragraphs of this complaint, as if fully restated herein.

166. 13 CFR § 120.10 defines an “Eligible Passive Company” (“EPC”) as “a small entity or trust which does not engage in regular and continuous business activity, which leases real or personal property to an Operating Company for use in the Operating Company's business, and which complies with the conditions set forth in § 120.111.”

167. 13 CFR § 120.10 defines an “Operating Company” (“OC”) as “an eligible small business actively involved in conducting business operations now or about to be located on real property owned by an Eligible Passive Company, or using or about to use in its business operations personal property owned by an Eligible Passive Company.”

168. 13 CFR § 120.100 provides that “[t]o be eligible for an SBA business loan, a small business applicant must: (a) Be an operating business (except for loans to Eligible Passive Companies).”

169. 13 CFR § 120.110 further provides that “[t]he following types of businesses are ineligible [for SBA business loans]: ... (c) Passive businesses owned by developers and landlords that do not actively use or occupy the assets acquired or improved with the loan proceeds (except Eligible Passive Companies under § 120.111).”

170. 13 CFR § 120.111 provides that “[a]n Eligible Passive Company must use loan proceeds only to acquire or lease, and/or improve or renovate, real or personal property (including eligible refinancing), that it leases to one or more Operating Companies for conducting the Operating Company's business.”

171. 13 CFR § 120.111(a) details conditions of eligibility for EPCs, including “(5) The Operating Company must be a guarantor or co-borrower with the Eligible Passive Company” and “(6) Each holder of an ownership interest constituting at least 20 percent of either the Eligible

1 Passive Company or the Operating Company must guarantee the loan.”

2 172. 13 CFR § 120.151 provides that the aggregate guarantee amount for total loans to  
3 single borrowers cannot exceed \$3,750,000. The provision specifically notes that “[t]he amount  
4 of any loan received by an Eligible Passive Company applies to the loan limit of both the Eligible  
5 Passive Company and the Operating Company.”

6 173. The SBA issues Standard Operating Procedures (“SOPs”) to inform SBA lenders  
7 regulations governing SBA loans. SOP 50 10 6 is the version of the SBA guidance on eligibility  
8 requirements for SBA loans, including 7(a) loans, applicable at the time the subject loans were  
9 made by UniBank.<sup>3</sup>

10 174. The first requirement listed is that “[t]he Applicant must...[b]e an Operating  
11 Business (except for Eligible Passive Companies).” (SOP 50 10 6, p. 117).

12 175. Later, the SOP provides that “[b]ecause the EPC rule is an exception, the EPC and  
13 the OC must comply with all of the conditions in 13 CFR § 120.111 and each condition is  
14 interpreted strictly.” (SOP 50 10 6, p. 133).

15 176. Further, the SOP provides that “[t]he OC(s) must be a guarantor or a co-Borrower  
16 on the loan,” and that “[t]he OC(s) must be a co-Borrower if it receives any proceeds or if proceeds  
17 will be used to purchase any assets for the OC(s) use.” (SOP 50 10 6, p. 136).

18 177. Finally, the SOP provides that “[t]he EPC and each OC must submit Financial  
19 Statements. The OC’s statements are subject to tax verification.” (SOP 50 10 6, p. 137).

20 178. UniBank staff signed an SBA Authorization form for each Plaintiff’s loan  
21 application. Plaintiffs were not required to, nor did they, sign the SBA Authorization form.

22 179. The SBA Authorization form states that the lender must verify financial  
23 information of the OC, including that “[p]rior to any disbursement of Loan proceeds . . . Lender  
24 *must* submit IRS Form 4506-T to the Internal Revenue Service to obtain federal income tax  
25

26 <sup>3</sup> SBA SOP 50 10 6 is available for download at <https://www.sba.gov/document/sop-50-10-lender-development-company-loan-programs>. (last accessed: June 5, 2023)



1 information on Borrower, or the Operating Company if the Borrower is an EPC, for the last 3 years  
 2 (unless Borrower or Operating Company is a start-up business).” (emphasis added). The lender  
 3 must then “compare the tax data received from the IRS with the financial data or tax returns  
 4 submitted with the Loan application, and relied upon in approving the Loan.”

5 180. The business models, lease agreements, and information on each Plaintiff’s  
 6 application, plus the information UniBank received directly from Hill and CETA, unequivocally  
 7 showed that Plaintiffs would not “actively use or occupy the assets acquired . . . with the loan  
 8 proceeds,” as required by 13 CFR § 120.110.

9 181. None of the loan documentation listed any Plaintiff as an EPC, for any SBA loan  
 10 that UniBank provided to Plaintiffs.

11 182. Each Plaintiff’s loan documents included a Form 1919. UniBank completed each  
 12 of these Forms 1919 and submitted to Plaintiffs only for their electronic signature.

13 183. SBA Form 1919 is the Borrower Information Form for 7(a) loans. The first box on  
 14 the form includes check boxes to indicate whether the “Applicant Business” is an OC or EPC.  
 15 Below that box is another box to state the name of the “Operating Business” related to the loan.

16 184. Neither the OC or EPC box is checked for the “Applicant Business,” nor is CETA  
 17 listed as the “Operating Business” on any of Plaintiffs’ Forms 1919.

18 185. There is no documentation in any Plaintiff’s loan paperwork reflecting that  
 19 UniBank submitted IRS Form 4506-T to the IRS, nor that any “financial data or tax returns” of  
 20 CETA were submitted with Plaintiffs’ loan applications.

21 186. UniBank, through its employees, intentionally completed each Plaintiff’s Form  
 22 1919 incorrectly in order to mislead Plaintiffs into thinking they qualified for the loan, which they  
 23 did not, and to misstate facts to the SBA and ensure that the loans were approved when, in fact,  
 24 they never should have been approved per SBA rules and guidance.

25 187. UniBank, through its extensive experience as an SBA Preferred Lender, was aware  
 26 of SBA lending eligibility requirements, including requirements related to EPC applicants for SBA



1 7(a) loans.

2 188. UniBank, with extensive experience as an SBA Preferred Lender, was aware of  
3 how to complete SBA loan forms, including that UniBank was required to:

- 4 a. Identify Plaintiffs as an EPC;  
5 b. Identify CETA as the OC;  
6 c. Include CETA as a guarantor or co-borrower; and  
7 d. collect financial documents of CETA, subject to tax verification.

8 189. UniBank, through its employees, knew when it made the SBA loans that Plaintiffs  
9 were not actively involved in conducting business operations related to CO<sub>2</sub> capture and  
10 utilization.

11 190. UniBank, through its employees, knew when it made the SBA loans that Plaintiffs  
12 would not actively use the CCU units that were to be purchased with the proceeds of the SBA 7(a)  
13 loans.

14 191. UniBank, through its employees, knew when it made the SBA loans that CETA  
15 was the OC for Plaintiffs' SBA 7(a) loan applications, as that term is defined by SBA regulations  
16 and SOPs.

17 192. Because CETA refused to provide UniBank with financial documents that were  
18 required by SBA rules and guidance, UniBank knew it could not process Plaintiffs' SBA 7(a) loan  
19 applications if it identified Plaintiffs as EPCs.

20 193. UniBank wanted to make the SBA loans to Plaintiffs, even though CETA refused  
21 to provide the documentation that UniBank was required to submit to SBA if CETA was a co-  
22 Borrower on the loans.

23 194. Additionally, if UniBank had identified CETA as the OC for the loans, the  
24 aggregate SBA guaranteed amount for CETA-related loans would have totaled approximately  
25 \$13,623,750 – nearly \$10 million over the \$3,750,000 limit provided by 13 CFR § 120.151.  
26

1           195. UniBank, through its employees, intentionally falsified Plaintiffs' loan applications  
2 by failing to identify Plaintiffs' as EPCs.

3           196. Had UniBank accurately completed the SBA Forms for Plaintiffs' loan  
4 applications, none of Plaintiffs would have qualified for or received their SBA loan.

5           197. Because UniBank's employees fraudulent conduct was performed during the  
6 course and scope of their employment and with the knowledge of senior management, UniBank is  
7 liable for their acts under the doctrines of respondeat superior and agency.

8           198. Plaintiffs relied upon UniBank's expertise, knowledge, and assistance to ensure that  
9 their CCU investments were eligible for an SBA loan, as well as to ensure that all forms were  
10 properly completed as required by SBA regulations and guidelines.

11           199. Because of UniBank's fraud, Plaintiffs were harmed financially because they have  
12 had to pay loan fees, insurance premiums, and interest and principal towards a CCU that, if it even  
13 exists, does not function and, therefore, has no value beyond scrap value.

14           200. Plaintiffs continue to be harmed because loan payments continue to be due to  
15 UniBank.

16                           **COUNT II – NEGLIGENCE AGAINST UNIBANK**

17           201. Plaintiffs restate, reallege, and incorporate by reference all of the foregoing  
18 paragraphs of this complaint, as if fully restated herein.

19           202. UniBank provided loans to Plaintiffs to fund their investments into CETA for the  
20 purchase of CCUs.

21           203. The loans UniBank provided were SBA 7(a) loans, which had stringent and specific  
22 requirements, mandated by regulations and guidance from the SBA, about which UniBank had  
23 special knowledge, but about which Plaintiffs did not.

24           204. No Plaintiff had remotely the same level of knowledge regarding SBA 7(a) loan  
25 requirements, and some had no knowledge of such requirements at all.  
26

1           205. UniBank, through its employees, applied its special knowledge and provided advice  
2 to Plaintiffs regarding Plaintiffs' corporate structure and business plans, CETA's Operator's  
3 Agreements, and Plaintiffs' loan documentation, to ensure it would be accepted by the SBA.  
4 UniBank further completed and submitted loan paperwork to SBA, such that it would be accepted  
5 by the SBA.

6           206. Plaintiffs lacked the knowledge to qualify for and receive an SBA 7(a) loan without  
7 the advice, guidance and expertise of UniBank.

8           207. Because of this disparity in knowledge and skill, and because UniBank provided  
9 advice and guidance related to SBA 7(a) loan qualification requirements on which Plaintiffs relied  
10 to qualify for these government loans, UniBank was in a quasi-fiduciary position of trust, which  
11 created a duty of care that UniBank owed to Plaintiffs.

12           208. UniBank breached this trust and its duty of care to Plaintiffs by ignoring obvious  
13 signs of fraud and making SBA loans to Plaintiffs for the CCU investments.

14           209. UniBank breached this trust by failing to tell Plaintiffs about the signs of fraud that  
15 it saw in CETA before completing their loans.

16           210. UniBank breached this trust by failing to tell Plaintiffs that their proposed  
17 investment in the CCUs would not qualify for an SBA 7(a) loan because Plaintiffs did not have  
18 ongoing businesses operations.

19           211. Because UniBank's employees' negligent conduct was performed during the  
20 course and scope of their employment, UniBank is liable for actions under the doctrines of  
21 respondeat superior and agency.

22           212. Moreover, UniBank is liable because standard lending practices for banks include  
23 director/governor or lending committee approval of lending policies, and potentially of each loan  
24 of the size provided to Plaintiffs, meaning UniBank directly participated in the negligent acts.

25           213. Because of these breaches, Plaintiffs were harmed financially because they have  
26 had to pay loan fees, insurance premiums, and interest and principal towards a CCU that, if it even

exists, does not function and, therefore, has no value beyond scrap value.

214. Plaintiffs continue to be harmed because loan payments continue to be due to UniBank.

**COUNT III – VIOLATION OF THE SECURITIES ACT**  
**OF WASHINGTON (RCW § 21.20.430)**  
**AGAINST UNIBANK AND U & I FINANCIAL CORP.**

215. Plaintiffs restate and reallege all of the foregoing paragraphs of this complaint and incorporate by reference as if fully restated herein.

216. RCW § 21.20.005(17)(a) defines an investment contract as a security.

217. The *Howey* test for defining an investment contract includes: (1) an investment of money, (2) in a common enterprise, (3) with the expectation of profit, or (4) to be derived from the efforts of others. *See S.E.C. v. W.J. Howey Co.*, 328 U.S. 293, 298, 66 S. Ct. 1100, 1102, 90 L. Ed. 1244 (1946).

218. Each Plaintiff's investment in CETA for the purchase of CCUs meets all the standards of the *Howey* test, therefore each investment transaction with CETA is a security.

219. But for UniBank providing the SBA loans to Plaintiffs, they would not have entered into these transactions.

220. UniBank employees provided material misrepresentations related to the CCU investments to Plaintiffs in connection with the sale of the securities, some of which were forwarded from CETA and some of which UniBank employees created, including, but not limited to, pro forma financials for the CCU projects.

221. In communications with Plaintiffs related to the sale of the CCU investments, UniBank employees omitted material information related to the securities, including, but not limited to, the fact that CETA refused to provide key financial information and contracts, the fact that CETA had no patents or trademarks on the CCUs or *CETASolve*, the fact that Plaintiffs should not have been qualified for an SBA 7(a) loan, and the fact that UniBank employees suspected

1 fraud.

2 222. UniBank's employees had a duty to confirm the veracity of representations related  
3 to the securities before providing it to Plaintiffs, particularly when UniBank created the  
4 information.

5 223. UniBank employees made these material misrepresentations and omissions for the  
6 purpose of deriving corporate profit at Plaintiffs' expense.

7 224. UniBank's provision of the SBA loans to Plaintiffs, which went beyond that of a  
8 lender and was more equivalent to the activities of a promoter, was a substantial contributive factor  
9 in the sale of securities to Plaintiffs.

10 225. Because UniBank's conduct was a substantial contributive factor in the sale of the  
11 CCU investments to Plaintiffs, they have secondary liability as a seller pursuant to Washington  
12 law.

13 226. UniBank's management was aware of the misrepresentations and omissions made  
14 to Plaintiffs, and actively participated in facilitating the issuance of SBA loans to Plaintiffs.

15 227. Because UniBank's employees made these material misrepresentations and  
16 omissions to investors in the scope of their employment and with the acquiescence of management,  
17 and because UniBank derived profit from the transactions, UniBank is liable under the doctrine of  
18 respondeat superior.

19 228. UniBank directly controls its employees who provided material misrepresentations  
20 and omissions to Plaintiffs.

21 229. Because U&I is the sole owner of UniBank, reports all financial information of  
22 UniBank as its own, and controls UniBank and all of its employees through common officers and  
23 directors, U&I directly controls UniBank. Thus, U&I either directly or indirectly controls the  
24 employees who provided material misrepresentations and omissions to Plaintiffs.

25 230. Because of the misrepresentations and omissions made to Plaintiffs in connection  
26 with the sale of these securities, as detailed throughout this complaint, Plaintiffs were harmed

1 financially because they have had to pay loan fees, interest, and principal towards a CCU that, if  
2 it even exists, does not function and, therefore, has no value beyond scrap value.

3 231. Plaintiffs continue to be harmed because loan payments continue to be due to  
4 UniBank.

5 **COUNT IV - VIOLATION OF THE SECURITIES ACT**  
6 **OF WASHINGTON (RCW § 21.20.430)**  
7 **AGAINST THE GOVERNOR DEFENDANTS**

8 232. Plaintiffs restate and reallege all of the foregoing paragraphs of this complaint and  
9 incorporate by reference as if fully restated herein.

10 233. RCW § 23.95.105 provides that the “Governor” of a corporation includes directors  
11 of a business corporation, and “[a]ny other person under whose authority the powers of an entity  
12 are exercised and under whose direction the activities and affairs of the entity are managed  
13 pursuant to the organic law and organic rules of the entity.”

14 234. The Governor Defendants, by virtue of their authority over UniBank and U&I,  
15 exercise direct control over UniBank, U&I, and all the employees thereof.

16 235. RCW § 21.20.430(3) provides that every person (including officers and directors)  
17 who controls a seller of securities who violates RCW § 21.20.430(1) or (2) is liable jointly and  
18 severally and to the same extent as the seller.

19 236. Because UniBank and U&I are liable for securities fraud, the Governor Defendants  
20 are jointly and severally liable for the harm caused to Plaintiffs.

21 237. Because of UniBank’s misrepresentations and omissions in connection with the  
22 sale of these securities, Plaintiffs were harmed financially because they have had to pay loan fees,  
23 interest, and principal towards a CCU that, if it even exists, does not function and, therefore, has  
24 no value beyond scrap value.

25 238. Plaintiffs continue to be harmed because loan payments continue to be due to  
26 UniBank.

**COUNT V - VIOLATION OF THE CONSUMER PROTECTION ACT**  
**OF WASHINGTON (RCW § 19.86.020)**  
**AGAINST THE UNIBANK**

239. Plaintiffs restate, reallege, and incorporate by reference all of the foregoing paragraphs of this complaint, as if fully restated herein.

240. RCW § 19.86.010 defines the term “person” to include “natural persons, corporations, trusts, unincorporated associations and partnerships.”

241. The provision of loans, banking, and financial services is commerce directly or indirectly affecting the people of the state of Washington.

242. UniBank’s provision of SBA loans to each Plaintiff, with knowledge that each Plaintiff did not qualify for the loans, was a deceptive act.

243. UniBank’s provision of SBA loans to all Plaintiffs, with knowledge that no Plaintiffs qualified for the loans, was a deceptive practice.

244. UniBank’s conduct consisted of multiple acts targeted at multiple consumers, as a part of a pattern in the course of UniBank’s business.

245. Because UniBank provides millions of dollars in loans to the public every year, there is a real and substantial potential UniBank has and/or will engage in further such conduct, causing harm to the public at large.

246. UniBank’s deceptive acts and practices in the conduct of commerce harmed Plaintiffs financially because they have had to pay loan fees, insurance premiums, and interest and principal towards a CCU that, if it even exists, does not function and, therefore, has no value beyond scrap value.

247. Plaintiffs continue to be harmed because loan payments continue to be due to UniBank.

**COUNT VI – VIOLATION OF THE RACKETEER INFLUENCED AND CORRUPT  
ORGANIZATIONS ACT OF 1970 (18 U.S.C. § 1961, et seq.)  
AGAINST UNIBANK AND U & I FINANCIAL CORP**

248. Plaintiffs restate, reallege, and incorporate by reference all of the foregoing paragraphs of this complaint, as if fully restated herein.

249. Plaintiffs plead this count in the alternative, should the Court determine that the conduct of Defendants is not deemed actionable as securities fraud.

250. UniBank and U&I are persons, as that term is defined in 18 U.S.C. § 1961(3).

251. As noted in the preceding paragraphs, UniBank and U&I employees and agents, including their CEO, formed an association-in-fact with Hill and employees of CETA and NOEP for the purpose of providing SBA loans to borrowers to invest in CCUs with CETA.

252. The coordinated efforts of UniBank and U&I employees and agents with Hill and CETA employees continued for nearly two years.

253. 18 U.S.C. § 1961(4) defines an enterprise to include “any union or group of individuals associated in fact although not a legal entity.”

254. Due to this association-in-fact, UniBank and U&I employees and agents noted in this complaint, together with Hill and employees of CETA and NOEP, operated as an enterprise.

255. UniBank employees were aware that Plaintiffs could not qualify for an SBA loan without CETA also being a co-guarantor or co-borrower on the loan, due to Plaintiffs’ status as passive, non-operating businesses.

256. UniBank employees deceived Plaintiffs into obtaining these SBA loans by means of false or fraudulent pretenses.

257. 18 U.S.C. § 1961(1) defines “racketeering activity” to include “any act which is indictable under ... title 18, United States Code ... section 1343 (relating to wire fraud).”

258. Each time UniBank employees transmitted loan documents to Plaintiffs for electronic signature, they did so with knowledge that Plaintiffs did not qualify for an SBA loan.



1           259. Each time UniBank employees accepted electronically transmitted wire transfer  
2 requests from Plaintiffs, they did so with knowledge that Plaintiffs did not qualify for an SBA loan.

3           260. Each time UniBank employees executed the wire transfers to CETA for purchase  
4 of the CCUs, they did so with knowledge that Plaintiffs did not qualify for an SBA loan.

5           261. Each time UniBank employees transmitted loan documentation to the SBA for  
6 approval of Plaintiffs' loans, they did so with knowledge that Plaintiffs did not qualify for an SBA  
7 loan.

8           262. UniBank employees transmitted the writings and signals detailed throughout this  
9 complaint in interstate commerce for the purpose of obtaining money from Plaintiffs under false  
10 pretenses.

11           263. Pursuant to 18 U.S.C. § 1961(5), a "pattern of racketeering activity" requires at  
12 least two acts of racketeering activity within 10 years.

13           264. Considering the number of Plaintiffs involved, Defendants executed dozens of such  
14 wire communications, all within 10 years of each other.

15           265. The members of the enterprise, as employees and agents of UniBank and U&I  
16 acting within the scope of their employment, are associated with UniBank and U&I.

17           266. UniBank and U&I benefited from the enterprise's pattern of racketeering activity,  
18 by obtaining fees and interest payments from Plaintiffs.

19           267. UniBank and U&I conducted or participated, directly or indirectly, in the pattern of  
20 racketeering activity described herein and conducted by the association-in-fact described herein.

21           268. Because UniBank and U&I benefited from the enterprise's violation, and because  
22 UniBank and U&I employees and agents were engaged in the violations within the scope of their  
23 employment, UniBank and U&I are liable under the doctrines of respondeat superior and/or  
24 agency.

25           269. Because of UniBank and U&I's activity described herein, Plaintiffs were harmed  
26 financially because they have had to pay loan fees, insurance premiums, and interest and principal

1 towards a CCU that, if it even exists, does not function and, therefore, has no value beyond scrap  
2 value.

3 270. Plaintiffs continue to be harmed because loan payments continue to be due to  
4 UniBank.

5 **PRAYER FOR RELIEF**

6 Plaintiffs demand judgement against Defendants for the following relief:

- 7 a. An injunction entered by the Court to defer further SBA loan payments from  
8 Plaintiffs pending the outcome of this litigation;  
9 b. An award of compensatory, consequential, and incidental damages in an  
10 amount to be determined by a jury at trial;  
11 c. An award of treble damages, as authorized by 18 U.S.C. § 1964(c).  
12 d. An award of \$25,000 in punitive damages, as authorized by RCW § 19.86.090,  
13 for each Plaintiff;  
14 e. Interest;  
15 f. Reasonable attorney fees and costs of this action; and  
16 g. Such other relief as this Court may deem just, equitable or proper.

17 **RESPECTFULLY** submitted this 29th day of June, 2023.

18 KELLER ROHRBACK L.L.P.

19  
20 By: s/ Lynn L. Sarko

21 By: s/ Chris N. Ryder

22 Lynn L. Sarko, WSBA #16569

23 Chris N. Ryder, WSBA #58732

24 1201 Third Ave., Suite 3200

25 Seattle, WA 98101

26 Telephone: (206) 623-1900

lsarko@kellerrohrback.com

cryder@kellerrohrback.com

BEASLEY, ALLEN, CROW, METHVIN,  
PORTIS & MILES, P.C.

By: *s/ James Eubank \**

By: *s/ Wilson Daniel "Dee" Miles, III \**

By: *s/ Paul Evans \**

James B. Eubank

Wilson Daniel "Dee" Miles, III

Paul W. Evans

218 Commerce Street

Montgomery, AL 36104

Telephone (334) 269-2343

James.Eubank@BeasleyAllen.com

Dee.Miles@BeasleyAllen.com

Paul.Evans@BeasleyAllen.com

*Attorneys for Plaintiffs*

*\* Applications for admission pro hac vice  
forthcoming*